

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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KENYA N. SCOTT.

Plaintiff,

V.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

Case No. 2:17-cv-02557-RFB-CWH

ORDER

Presently before this Court is a referral (ECF No. 11) from the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit has instructed this Court to determine whether Plaintiff's *in forma pauperis* status should continue for her appeal. An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). An appeal's good faith requirement is satisfied if it seeks review of any issue that is "not frivolous." *Gardner v. Pogue*, 558 F.2d 548, 551 (9th Cir. 1977). The Ninth Circuit has previously held that "[i]f at least one issue or claim is found to be non-frivolous, leave to proceed *in forma pauperis* on appeal must be granted for the case as a whole." *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

19 On October 11, 2017, the Court granted Plaintiff's application to proceed *in forma*
20 *pauperis* (ECF No. 4), finding that Plaintiff was unable to pay the filing fee in District Court. In
21 the same order, the Court also ordered that Plaintiff's complaint be dismissed without prejudice
22 for failure to state a claim upon which relief can be granted. Plaintiff was given thirty days in
23 which to file an amended complaint. Plaintiff did not file an amended complaint, but on
24 November 14, 2017, did file a four-line notice to the Court (ECF No. 6) that addressed some, but
25 not all, of the deficiencies noted in her complaint. On December 1, 2017, Judge Hoffman issued
26 a report and recommendation (ECF No. 7) that Plaintiff's complaint be dismissed without
27 prejudice. Plaintiff did not file an objection. On January 22, 2018, Judge Boulware entered an

1 order accepting and adopting the report and recommendation. ECF No. 8. The case was then
2 closed.

3 On March 23, 2018, Plaintiff filed a notice of appeal (ECF No. 9), which claims that “the
4 judge’s findings and ruling are insufficient.” Plaintiff’s notice of appeal re-alleges that her social
5 security benefits were improperly denied, but does not argue that any specific aspect of Judge
6 Boulware’s order dismissing her complaint was erroneous. Considering the lack of any specific
7 objection to the Court’s orders, as well as Plaintiff’s failure to object to the report and
8 recommendation, the Court finds Plaintiff’s appeal is frivolous. The Court therefore determines
9 that Plaintiff should not be granted *in forma pauperis* status for her appeal.

10 IT IS THEREFORE ORDERED that Plaintiff’s *in forma pauperis* status is revoked for
11 purposes of her appeal.

12 IT IS FURTHER ORDERED that the Clerk shall provide a copy of this order to the Ninth
13 Circuit.

14 DATED: April 4, 2018

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16 C.W. HOFFMAN, JR.
17 UNITED STATES MAGISTRATE JUDGE
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